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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,172	01/29/2001	John L. Cartier	09221-P01	9721

26486 7590 08/07/2002

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 08/07/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/772,172

Applicant(s)

CARTIER, JOHN L.

Examiner

Victor S Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim is narrative in form and replete with indefinite and functional or operative language. The structure which goes to make up the product must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim must be in one sentence form only. Note the format of the claims in the patent cited. For example, in claim 1 (C) the limitation "not limited to the size in which it is being presented" render the scope indefinite because they are subjective and unable to be defined. Although the claim appears to have been written by an attorney, the numerous informalities require it to be completely rewritten.

If Applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application

can be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Juneau (US 5100716) either individually, or in view of Sonoda (US 5357724).

Juneau's invention is directed to an improved floor covering material and one on which ice can be easily broken and swept away without the use of special implements, such as shovels, ices, salts, etc., but rather by the weight of a person standing on the sheet and more particularly, wherein the floor covering deforms under the load of a person standing thereon (column 1, lines 6-12). In Fig. 1, Juneau teaches that the outdoor floor covering is comprised of two laminated sheets of flexible water-resistant materials bonded together by suitable bonding means such as glue or fusing. The top one of the sheet 11 is formed of galvanized rubber or like material which has a high density to prevent puncture thereof under a concentrated load exerted thereon such as by the heel of a ladies shoe. The backing layer 12 is comprised of a foam rubber which is non-absorbent and which remains flexible at low temperatures. It is a closed cell material so that the backing will deform under the force of a small load exerted on the

Art Unit: 1771

top sheet such as by a person's weight (column 2, lines 22-36). Further, Fig 2 shows that the covering is used as a stair mat. Juneau lacks the teaching of enclosing the flexible foam as a core material in a mat. However, it is noted that Juneau teaches that the foam used has closed cell, it implicitly teaches that the foam does not have an open cell structure, and functionally equivalent to an enclosed foam core structure.

Alternatively, Sonoda's patent is directed to a stair tread with an enclosed metal core (Fig. 5). Sonoda teaches that in prior art, only the tread surface is covered with the synthetic rubber, rainwater collects on the upper surface of the tread and seeps into the spaces between the tread and the stringers. Further, eventually the stringer corrodes and can lead to a dangerous situation (column 1, lines 20-27). As such it would have been obvious to one of ordinary skill art to modify Juneau's mat according to Sonoda's teaching to enclose the foam as a core material in the stair mat, motivated by the desire to protect the foam from degradation over the time.

5. Regarding claim 1 (A), the Examiner would like to question the choice of styro-foam as the core substance. It is known that styro-foam has low resiliency and deforms permanently, therefore it may not be the best mode to make a mat which requires good flexibility and resiliency.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for making stair mat:

US 5380988 to Dyer

US 2001/0000841 A1 to Birch et al.

Art Unit: 1771

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC

VSC

August 5, 2002

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300

1700

Daniel Zinker